

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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*In re* ANDERSON/SMIGLIANI, Minors.

UNPUBLISHED  
December 12, 2019

No. 348838  
Oakland Circuit Court  
Family Division  
LC No. 13-812812-NA

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*In re* J. L. ANDERSON, Minor.

No. 348839  
Oakland Circuit Court  
Family Division  
LC No. 13-812812-NA

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Before: RONAYNE KRAUSE, P.J., and CAVANAGH and SHAPIRO, JJ.

PER CURIAM.

In Docket No. 348838, respondent-mother appeals as of right the trial court’s order terminating her parental rights to her minor children, JLA and GCS. In Docket No. 348839, respondent-father appeals as of right the trial court’s order terminating his parental rights to JLA.<sup>1</sup> The court terminated the parental rights of both respondents under MCL 712A.19b(3)(g) and (j). We affirm.

I. BACKGROUND

Both respondents have struggled with drug and alcohol addictions. The minor children were previously made court wards in early 2016. JLA was removed from respondents’ custody in February 2016 after both respondents were found unconscious from drug overdoses while JLA was in the home. GCS was later placed into care in March 2016, after respondent-mother tested

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<sup>1</sup> GCS’s father is not a party to these appeals.

positive for cocaine while at the hospital following his birth. Services were provided to both respondents. Respondent-mother complied with the requirements of her treatment plan and the children were returned to her care in December 2017. Respondent-father was incarcerated at this time, and he had not satisfied the requirements of his treatment plan.

Shortly after the children were returned, the police were called to respondent-mother's home on December 24, 2017, because of reports that she was suicidal. A month later, on January 26, 2018, respondent-mother was discovered in her vehicle in a store parking lot, with the keys in the ignition and the engine running. Respondent-mother was unconscious and incoherent, and JLA and GCS were both in the backseat. The children were allowed to remain in respondent-mother's custody, but over the next several months, the police were called to her home on multiple occasions in response to reports of domestic violence or reports that respondent-mother was in medical distress.

When respondent-father was released from jail in February 2018, he initially was homeless and his housing situation afterward was transitory. In July 2018, respondent-father moved into the home of respondent-mother and the children, bringing with him his girlfriend who was addicted to crack cocaine. In August 2018, the police were called to respondents' home and discovered respondent-father under the influence of alcohol. He admitted that he, respondent-mother, and his girlfriend had smoked crack cocaine in the children's presence the day before, and he further admitted that he and respondent-mother were not able to properly care for the children. The children were removed from respondents' custody and placed in foster care. Petitioner Department of Health and Human Services (DHHS) filed a petition requesting termination of respondents' parental rights at the initial dispositional hearing. After conducting lengthy hearings, the trial court found that statutory grounds for termination existed under MCL 712A.19b(3)(g) and (j), and that terminations of respondents' parental rights was in the children's best interests. Respondents now appeal.

## II. ANALYSIS

### A. STATUTORY GROUNDS

Respondents first argue that the trial court clearly erred by finding clear and convincing to terminate their parental rights under MCL 712A.19b(3)(g) and (j).<sup>2</sup> We disagree.

In *In re White*, 303 Mich App 701, 709-710; 846 NW2d 61 (2014), this Court observed:

This Court reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination. The trial court's factual findings are clearly erroneous if the evidence supports them, but [this Court is] definitely and firmly convinced that [the trial court] made a mistake.

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<sup>2</sup> Respondent-father also asserts that termination of his parental rights was improper under MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist). However, the trial court did not rely on that subsection as a statutory basis for termination.

“In reviewing a trial court’s findings, this Court must give regard to the trial court’s special opportunity . . . to judge the credibility of the witnesses who appeared before it.” *In re Gonzales/Martinez*, 310 Mich App 426, 431, 871 NW2d 868 (2015).

The trial court terminated respondents’ parental rights under MCL 712A.19b(3)(g) and (j), which permit termination under the following circumstances:

(g) The parent, although, in the court’s discretion, financially able to do so, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.

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(j) There is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.

A trial court need only find one statutory ground to terminate a respondent’s parental rights. *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011).

The children were previously in care for approximately two years because of respondent-mother’s substance abuse issues. After she was provided with services, the children were returned to her care in December 2017. Two weeks later, the police responded to a call that respondent-mother was suicidal. Approximately a month later, the police discovered respondent-mother in a store parking lot, slumped over the steering wheel of her vehicle, with both of her children in the backseat. A law enforcement officer described respondent-mother as having an “incoherent” demeanor, and her “eyes were kind of drooping and her speech was very slurred.” She was belligerent and uncooperative, and had to be physically restrained. Blood testing revealed the presence of barbituates. The day before, another police officer had responded to respondent-mother’s home after a family member reported that she was suicidal and experiencing symptoms related to alcohol withdrawal. After respondent-mother was hospitalized, she attempted to leave the hospital and walk to her home many miles away in cold weather.

The children remained in respondent-mother’s custody after her release from the hospital. On February 26, 2018, a police officer responded to respondent-mother’s home and found her lying intoxicated on the living room floor with her two children nearby. Respondent-mother was “very out of it, [and] she was not really able to communicate” with the police when they arrived. The children were entrusted to the care of respondent-mother’s companion.

On June 5, 2018, the police again responded to respondent-mother’s home. Respondent-mother’s companion accused respondent-mother of pushing him, smashing his television, and then hitting herself. The home was in a state of disarray, with piled-up dishes, trash strewn throughout, and the children sleeping on the couch. According to the responding police officer, respondent-mother was “extremely hysterical, crying[,]” with slurred speech, and in general very difficult to communicate with. The police were called to respondent-mother’s home again on

August 20, 2018. Respondent-father reported that respondent-mother and respondent-father's girlfriend planned to purchase crack cocaine that day, and that the trio had smoked crack cocaine in the days before while the children were present in the home. On August 21, 2018, respondent-mother told a law enforcement officer that if she were to die in jail, no one would care and she would go back to using heroin after she left jail. She also stated that once released from jail, she would make a YouTube video of herself shooting up heroin.

Caseworkers testified that despite receiving services in the prior proceeding, respondent-mother did not show insight into the severity of her drug addiction, or the impact of her substance abuse on her children. While respondent-mother was in the hospital after GCS was born, she was found to be in possession of suspected cocaine and tested positive for cocaine, resulting in GCS's removal. Joelee Bateman, a behavioral health clinician with Easter Seals of Michigan, treated respondent-mother in August 2017, and recommended that she attend therapy one to three times a month, see her psychiatrist regularly, and take her medication on a consistent basis. Respondent-mother did follow her medication protocol, but she did not attend several appointments and her case was closed in October 2017. The children were eventually returned to respondent-mother's care in December 2017, but she continued to abuse substances.

Respondent-mother attended Easter Seals of Michigan again in July 2018 for an intake appointment to receive community mental health services, but she had not been receiving any treatment since October 2017. When Bateman again recommended that respondent-mother continue to see her psychiatrist, take her medication, and participate in therapy, respondent-mother did not follow through with these recommendations. After the children's removal in August 2018, respondent-mother denied smoking crack cocaine in front of the children, and denied substance abuse in general, but tested positive for cocaine. She also claimed that respondent-father "laced her cigarettes and was trying to ruin her life."

In light of this evidence, the trial court did not clearly err by finding that respondent-mother failed to provide proper care and custody for her children, and that there was no reasonable expectation that she could do so within a reasonable time considering the children's ages. MCL 712A.19b(3)(g). Additionally, considering the repeated dangerous situations that respondent-mother had placed her children, the trial court did not clearly err by finding that the children were reasonably likely to be harmed if returned to respondent-mother's home. MCL 712A.19b(3)(j).

Turning to respondent-father, the evidence showed that he was incarcerated when the children were returned to respondent-mother's custody in December 2017. Despite participating in services in the prior case, he did not complete the requirements of his treatment plan. When asked about his child and GCS being in the vehicle with respondent-mother in January 2018, when she was found unconscious with the engine running, respondent-father minimized the severity of the situation, characterizing it as "no big deal." After respondent-father's release from jail in February 2018, he did not have housing. He initially lived in a homeless shelter, then a hotel with the financial assistance of others, and then eventually moved in with respondent-mother and the children, but brought his girlfriend, who herself was addicted to crack cocaine, to live with them.

When the police visited respondent-father's home on August 20, 2018, he was visibly intoxicated in the presence of the children, and admitted that he had been smoking crack cocaine with his girlfriend and respondent-mother the day before. Thereafter, he was absent, uncooperative, and DHHS staff was not able to communicate with him on a regular basis. He failed to attend a pretrial hearing on September 17, 2018, and he told DHHS staff that he was not doing well at that time. He also missed the first two days of the adjudication trial in November 2018.

The foregoing evidence supports the trial court's finding that respondent-father failed to provide JLA with proper care and custody, and there was no reasonable expectation that he could do so within a reasonable time considering JLA's age. MCL 712A.19b(3)(g). Moreover, given respondent-father's complacent attitude about placing JLA in dangerous situations, the court did not clearly err by finding that JLA was reasonably likely to be harmed if returned to respondent-father's care. MCL 712A.19b(3)(j).

Both respondents, in a cursory and perfunctory fashion, and without providing any meaningful argument, complain that petitioner did not provide them with reunification services. "An appellant may not merely announce his or her position and leave it to this Court to discover and rationalize the basis for his or her claims." *Johnson v Johnson*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW2d \_\_\_ (2019) (Docket Nos. 345803; 345955); slip op at 8.<sup>3</sup> In any event, DHHS is not required to provide reunification services where termination of parental rights is the agency's goal. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013); *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009). In this case, reunification services were not provided after the children's removal in August 2018 because both respondents had previously been provided with extensive services in the prior case, and they both continued to abuse substances and demonstrate a lack of insight into the impact of their continuing substance abuse on the children. Accordingly, respondents are not entitled to relief on this basis. Moreover, once petitioner established a statutory ground for termination by clear and convincing evidence, respondents' liberty interest no longer included the right to custody and control of their children. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000).

## B. BEST INTERESTS

Respondents also argue that the trial court erred by finding that termination of their parental rights was in the best interests of each child. We disagree.

MCL 712A.19b(5) provides:

If the court finds that there are grounds for termination of parental rights and *that termination of parental rights is in the child's best interests*, the court

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<sup>3</sup> Respondent-mother, citing *Santosky v Kramer*, 455 US 745, 753-754; 102 S Ct 1388; 71 L Ed 2d 599 (1982), also asserts that DHHS did not provide her with fundamentally fair procedures before terminating her parental rights, but again, she has not adequately offered any substantive argument in support of this bare allegation.

shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made. [Emphasis added.]

We review a trial court's decision concerning a child's best interests for clear error. *In re Martin*, 316 Mich App 73, 88 n 10; 896 NW2d 452 (2016).

When considering best interests, the trial court must focus on the best interests of the child, as opposed to the parent. *In re Schadler*, 315 Mich App 406, 411; 890 NW2d 676 (2016). Whether termination is in a child's best interests "is determined by a preponderance of the evidence." *In re CMR Kaczowski*, 325 Mich App 69, 78; 924 NW2d 1 (2018). The trial court is required to consider "all the evidence available" in determining a child's best interests. *In re White*, 303 Mich App at 713.

The trial court may consider such factors as the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. Moreover, a trial court must explicitly address whether termination is appropriate in light of the children's placement with relatives. [*Schadler*, 315 Mich App at 411 (citations and quotation marks omitted).]

The trial court's finding that termination of respondents' parental rights was in the best interests of JLA and GCS is supported by the evidence. During her testimony at the best-interest hearing, respondent-mother admitted that she had been using cocaine on August 20, 2018. Dr. Barnard Gaulier, who evaluated respondent-mother, testified that she did not have insight into her substance abuse issues, and she routinely minimized the fact that her behavior caused the children's removal from her custody. Dr. Gaulier observed that despite having previously received ample services, within approximately a month after her children were returned to respondent-mother, she relapsed and was incarcerated, indicating that she not had received any significant benefit from the services provided. According to Dr. Gaulier, respondent-mother continued to put her own needs before those of her young children. Additionally, at the time of the best-interest hearing, respondent-mother was not gainfully employed, and her housing situation was transitory. Although the caseworker and respondent-mother's father both testified that respondent-mother had a strong bond with her children, the children were also having significant behavioral issues after spending an extended period of time in care, and they were in strong need of a stable, secure, and permanent home.

With respect to respondent-father, he did not complete the testing required by Dr. Gaulier at his initial visit on February 26, 2019, and then did not return the following week to complete the necessary testing. It was only after the best-interest hearing was adjourned at respondent-father's request that respondent-father eventually completed the testing on March 13, 2019. Foster care worker Brandy Davis testified that respondent-father denied needing assistance and support for issues involving domestic violence, although he had been previously incarcerated for such conduct. When JLA was removed from respondent-father's and respondent-mother's custody in August 2018, respondent-father did not seek out DHHS staff to plan for his daughter's return, and instead remained non-communicative and absent from the proceedings until November 2018. Respondent-father had been homeless and living in transitory housing preceding and throughout the court proceedings. He was residing with friends at the time of the

best-interest hearing, but he would not provide an address to enable the caseworker to determine whether the home was safe and suitable for JLA. He also would not provide proof of employment. Respondent-father emphasizes that he had made some positive strides, such as attending Narcotics Anonymous, Alcoholics Anonymous, Celebrate Recovery, participating in therapy, and taking steps to obtain housing and employment, and that the caseworker was willing to work with him on a treatment plan if the court did not terminate his parental rights. However, Dr. Gaulier opined that it was not likely that respondent-father would be able to effectively and safely parent JLA within a reasonable period of time, and that JLA was in need of stability and permanency given her extended amount of time in care.

It was for the trial court to consider the credibility of the witnesses as it weighed whether termination of respondents' parental rights was in JLA's and GCS's best interests. *In re Gonzales/Martinez*, 310 Mich App at 431. The court properly considered whether respondents had the ability to safely and effectively parent JLA and GCS, and weighed JLA's and GCS's significant interests in permanency, finality, and stability in their lives. *In re Schadler*, 315 Mich App at 411. The evidence that both children were experiencing serious behavioral issues and were in need of counseling, emotional support, and stability, which respondents were unable to provide, but which the children were receiving in their foster care placements, supports the trial court's finding that termination of respondents' parental rights was in the children's best interests.

Respondent-mother complains that the trial court did not separately consider the best interests of GCS and JLA. Specifically, she contends that JLA and GCS were not similarly situated, because GCS's father was working toward reunification, and therefore the trial court ought to have considered his potential relative placement before terminating her parental rights. She relies on *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010), in which our Supreme Court held that "a child's placement with relatives weighs against termination" and is "an explicit factor" that the trial court must consider when weighing whether termination of parental rights serves a child's best interests. Respondent-mother's reliance in *In re Mason* is misplaced.

A trial court is required to separately address each child's best interests only if their circumstances "significantly differ." *In re White*, 303 Mich App at 715. At the time respondent-mother's parental rights were terminated, GCS and JLA were residing together in the same foster home. Accordingly, we are not persuaded that the interests of JLA and GCS differed significantly to the extent the trial court was required to weigh their best interests individually. Even though reunification services were still being provided to GCS's father at the time of termination, GCS had not been placed in his custody. Further, GCS's father does not qualify as a "relative" under MCL 712A.13(j), such that GCS's potential placement with his father would weigh against terminating respondent-mother's parental rights. See *In re Schadler*, 315 Mich App at 413 (recognizing that because a biological parent is not a "relative" under MCL 712A.13(j), the trial court did not need to weigh that placement when conducting a best-interest analysis).

In sum, the trial court did not clearly err by finding that termination of respondents' parental rights was in the children's best interests.

Affirmed.

/s/ Amy Ronayne Krause

/s/ Mark J. Cavanagh

/s/ Douglas B. Shapiro